



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R05-OAR-2008-0138; EPA-R05-OAR-2011-0827; FRL-9397-02-R5]

**Air Plan Approval; Indiana, Ohio; Definition of Chemical Process
Plants Under State Prevention of Significant Deterioration**

Regulations and Operating Permit Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for Indiana and revisions to the operating permit program for Ohio. The revisions incorporate changes to the definition of "chemical process plants" under Indiana's Prevention of Significant Deterioration (PSD) regulations and under Ohio's operating permit program. EPA also provided an opportunity for public comment on similar changes to the definition of "major stationary source" in Ohio's PSD regulations that were approved into the SIP on October 28, 2014. The changes to the State rules described below are approvable because they are consistent with EPA regulations governing state PSD and title V programs and will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the Clean Air Act (CAA)), or any other applicable requirement of the CAA. EPA proposed to approve this action on January 19, 2022, and received no adverse comments.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** .

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2008-0138 (Ohio) and EPA-R05-2011-0827 (Indiana). All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Michael Langman, Physical Scientist, at (312) 886-6867 or Mari González, Environmental Engineer, at (312) 886-6175 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: For information regarding Indiana's PSD permit program: Michael Langman, Physical Scientist, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6867, *langman.michael@epa.gov*. For information regarding Ohio's title

V operating permit or PSD permit programs: Mari González, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6175, *gonzalez.mari@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. Background Information.

On January 19, 2022 (87 FR 2731), EPA proposed to approve revisions excluding ethanol production facilities that produce ethanol by natural fermentation from the chemical process plant source category in Indiana’s PSD rules at 326 Indiana Administrative Code (IAC) 2-2-1 and Ohio’s title V operating permit rules at Ohio Administrative Code (OAC) 3745-77-01. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM), and will not be restated here. The public comment period for this proposed rule ended on February 18, 2022. EPA received no comments on the proposal.

II. Final Action.

EPA is approving revisions to the Indiana SIP in 40 CFR 52.770. EPA is also approving revisions to the Ohio title V operating permit program in 40 CFR part 70, appendix A. The revisions that EPA is approving change the definition of “major stationary source” under Indiana’s PSD regulations at 326 IAC 2-

2-1(ff)(1) and Ohio's operating permit program at 3745-77-01(W). EPA is not taking action on changes related to Indiana's nonattainment new source review regulations in this action. EPA is taking no further action with respect to the 2014 revisions to the Ohio PSD SIP in 40 CFR 52.1870 related to the 2007 Ethanol Rule because we received no comments on this issue in the NPRM. As explained in the NPRM, EPA has determined that these revisions are consistent with EPA's PSD and title V regulations and that approval of these revisions is consistent with the requirements of CAA section 110(l) and will not adversely impact air quality.

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in Section II of this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and

will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission and a state title V program submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a); 42 U.S.C. 7661a(d); 40 CFR 70.1(c), 70.4(i). Thus, in reviewing SIP submissions and title V program revision submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

¹ 62 FR 27968 (May 22, 1997).

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 31, 2022.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 70 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (c) is amended by revising the entries for “2-2-1” to read as follows:

§ 52.770 Identification of plan.

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(c) * *

EPA--APPROVED INDIANA REGULATIONS

Indiana Citation	Subject	Indiana effective date	EPA approval date	Notes
* * * *	* *	*		
2-2-1	Definitions	3/16/2011	9/28/2011, 76 FR 59899	(a) through (e), (f) (2) through (f) (3), (g) through (cc), (dd) (2) through (dd) (3), (ee) (1) through (ee) (2), (ff) (2) through (ff) (6), (gg) (1) (A) through (gg) (1) (B), (gg) (2) through (gg) (3), (hh) through (rr), (ss) (2) through (ss) (6), (tt) through (vv), (ww) (1) (A) through (ww) (1) (E), (ww) (1) (G) through (ww) (1) (W), (ww) (2), (xx) through (aaa).
2-2-1	Definitions	7/11/2012	10/29/2012, 77 FR 65478	(dd) (1), (ff) (7), (ss) (1),

				(ww) (1) (F) and (ww) (1) (G) only.
2-2-1	Definitions	7/11/2012	7/2/2014, 79 FR 37646	(f) (1), (ee) (3), and (gg) (1) (C) only.
2-2-1	Definitions	9/16/2011	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	(ff) (1) only.
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PART 70—STATE OPERATING PERMIT PROGRAMS

3. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. In appendix A to part 70 the entry for "Ohio" is amended by adding paragraph (e) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

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Ohio

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(e) The Ohio Environmental Protection Agency submitted an operating permits program amendment on February 4, 2008. The program amendment contained in the February 4, 2008 submittal revises the definition of major source to exclude ethanol production facilities that produce ethanol by natural fermentation from the chemical process plant source category. The state is hereby granted approval effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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[FR Doc. 2022-07285 Filed: 4/6/2022 8:45 am; Publication Date: 4/7/2022]